

**NOTE: CHANGES MADE BY THE COURT**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

PENSKE MEDIA CORPORATION,  
dba PMC, a Delaware corporation,

Plaintiff,

v.

PROMETHEUS GLOBAL MEDIA,  
LLC, a Delaware limited liability  
company d/b/a hollywoodreporter.com;  
and DOES 1 through 10, inclusive,

Defendants.

Case No.: CV 11-7560-JST (MRW)

Hon. Josephine Staton Tucker

**PROTECTIVE ORDER**

Action filed: September 14, 2011  
Trial Date: July 9, 2013

In accordance with Federal Rule of Civil Procedure 26(c), it is so ordered  
that:

1. Any party producing documents, answers to interrogatories, responses  
to requests for admissions, testimony or other information in this litigation may  
designate such documents or information, or any part thereof, as "Confidential  
Material." Confidential Material includes those files, documents, computerized  
information, testimony or other information furnished by a party in the course of  
pretrial discovery in this action, including the contents and subject matter of such  
documents or information, which counsel believes in good faith is subject to  
protection under Rule 26(c) of the Federal Rules of Civil Procedure.

1           2.     Confidential Material may not be disclosed by the receiving party to  
2 any person other than:

3                   (a)     outside counsel of record in this litigation, and their partners,  
4 counsel, associates or employees to whom such disclosure is reasonably deemed  
5 necessary by such counsel for the conduct of this litigation;

6                   (b)     any party to this litigation (or its officers, directors, in-house  
7 counsel and employees), but only to the extent that such disclosure is reasonably  
8 deemed necessary by such party's counsel for the conduct of this litigation, and  
9 provided that such persons may retain Confidential Material only as long as  
10 necessary for the conduct of this litigation;

11                  (c)     independent experts and consultants retained by or associated  
12 with any party or its counsel to assist in the conduct of this litigation, but only to  
13 the extent that such disclosure is reasonably deemed necessary by such counsel for  
14 that purpose, provided that such persons may retain Confidential Material only as  
15 long as is necessary for them to render such assistance;

16                  (d)     a party or non-party witness and counsel for such witness in the  
17 course of his or her examination at deposition in this action, to the extent deemed  
18 necessary by counsel for a named party;

19                  (e)     persons who have prepared or assisted in the preparation of the  
20 Confidential Material or to whom the Confidential Material or copies thereof were  
21 addressed, delivered, or relate, but only to the extent that such disclosure is  
22 necessary for the conduct of this litigation, and provided that such persons may not  
23 retain any Confidential Material;

24                  (f)     the Court in this action, and Court personnel, including,  
25 stenographic reporters and/or certified videotape operators engaged in pretrial  
26 discovery, but provided that such persons may retain Confidential Material only as  
27 long as is necessary for such engagement;  
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1 (g) third-party vendors retained by or associated with any party or  
2 its counsel in order to assist in the conduct of this litigation, but only to the extent  
3 that such disclosure is reasonably deemed necessary by such counsel for that  
4 purpose and provided that such persons may retain Confidential Material only as  
5 long as is necessary for them to render such assistance; and/or

6 (h) any other person to whom the parties agree in writing, or as  
7 directed by Order of Court.

8 3. Before disclosing Confidential Material to any persons identified in  
9 Paragraph 2 above (other than the producing party and its officers, directors, in-  
10 house counsel, employees, experts, and the Court and Court personnel), counsel  
11 contemplating disclosure shall require such persons to read a copy of this Order  
12 and sign a copy of the Confidentiality Agreement, in the form attached hereto as  
13 Exhibit A, affirming that the recipient: (a) has read this Order and understands all  
14 of its terms; (b) agrees to abide by and to be bound by the terms of this Order; and  
15 (c) agrees to submit to the Court's jurisdiction for purposes of enforcement of this  
16 Order by proceedings for contempt and/or proceedings for legal and/or equitable  
17 relief, including damages, for a breach thereof. Counsel shall retain each such  
18 Confidentiality Agreement until such time as the litigation, including all appeals, is  
19 concluded and counsel has retrieved all Confidential Material, or received  
20 certification of its destruction, from the recipient pursuant to Paragraph 13 below.

21 4. Any party producing files, documents, computerized information,  
22 testimony or other information in the course of pretrial discovery in this action that  
23 counsel believes in good faith constitute or reveal confidential information of such  
24 a commercially or competitively sensitive nature that disclosure to persons other  
25 than those specified in Paragraph 5 below would reasonably be expected to result  
26 in injury to the designating party, may designate such documents or information, or  
27 any part thereof, as "Attorneys' Eyes Only—Highly Confidential Material." For  
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1 purposes of illustration only, and without limitation, the Parties anticipate that the  
2 categories of documents or information that might merit designation as Attorneys'  
3 Eyes Only—Highly Confidential Material include, but are not limited to,  
4 competitively sensitive financial information and competitively sensitive  
5 information about sources of news stories.

6 5. Attorneys' Eyes Only—Highly Confidential Material shall be treated  
7 as Confidential Material under this Order in all respects *except that Attorneys'*  
8 *Eyes Only—Highly Confidential Material and the contents and subject matter*  
9 *thereof shall not be revealed, disclosed or communicated in any way to anyone*  
10 *except the following persons:*

11 (a) outside counsel of record in this litigation, and their partners,  
12 counsel, associates or employees to whom such disclosure is reasonably deemed  
13 necessary by such counsel for the conduct of this litigation;

14 (b) independent experts and consultants retained by or associated  
15 with any party or its counsel to assist in the conduct of this litigation, but only to  
16 the extent that such disclosure is reasonably deemed necessary by such counsel for  
17 that purpose and provided that such persons may retain Attorneys' Eyes Only—  
18 Highly Confidential Material only as long as is necessary for them to render such  
19 assistance;

20 (c) an officer, director, employee, or proposed expert witness of the  
21 party that produced the Attorneys' Eyes Only—Highly Confidential Material in the  
22 course of his or her examination at deposition in this action, and counsel for such  
23 witness, to the extent deemed necessary by counsel for a named party in order to  
24 examine such witness;

25 (d) persons who have prepared or assisted in the preparation of the  
26 Attorneys' Eyes Only—Highly Confidential Material or to whom the Attorneys'  
27 Eyes Only—Highly Confidential Material or copies thereof were delivered, but  
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1 only the extent that such disclosure is necessary for the conduct of this litigation,  
 2 and provided further that such persons may not retain any Attorneys' Eyes Only—  
 3 Highly Confidential Material;

4 (e) the Court in this action and Court personnel, including  
 5 stenographic reporters and/or certified videotape operators engaged in pretrial  
 6 discovery, but provided that such persons may retain Attorneys' Eyes Only—  
 7 Highly Confidential Material only as long as is necessary for such engagement;

8 (f) third-party vendors retained by or associated with any party or  
 9 its counsel in order to assist in the conduct of this litigation, but only to the extent  
 10 that such disclosure is reasonably deemed necessary by such counsel for that  
 11 purpose and provided that such persons may retain Attorneys' Eyes Only—Highly  
 12 Confidential Material only as long as is necessary for them to render assistance;

13 (g) any other person to whom the parties agree in writing, or as  
 14 directed by Order of Court.

15 *In no event shall Attorneys' Eyes Only—Highly Confidential Material, or its*  
 16 *contents or subject matter, that has been disclosed by one party, be shown or*  
 17 *communicated in any way to the other party to this action (or its officers, directors,*  
 18 *employee or any other agents), with the exception of those persons identified in*  
 19 *Paragraphs 5(a) through 5(g) above.*

20 6. Before disclosing Attorneys' Eyes Only—Highly Confidential  
 21 Material to any persons identified in Paragraph 5 above (other than the producing  
 22 party and its officers, directors, in-house counsel, employees, experts, and the  
 23 Court and Court personnel), counsel contemplating disclosure shall require such  
 24 persons to read a copy of this Order and sign a copy of the Confidentiality  
 25 Agreement, in the form attached hereto as Exhibit A, affirming that the recipient:  
 26 (a) has read this Order and understands all of its terms; (b) agrees to abide by and  
 27 to be bound by the terms of this Order; and (c) agrees to submit to the Court's  
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1 jurisdiction for purposes of enforcement of this Order by proceedings for contempt  
2 and/or proceedings for legal and/or equitable relief, including damages, for a  
3 breach thereof. Counsel shall retain each such Confidentiality Agreement until  
4 such time as the litigation, including all appeals, is concluded and counsel has  
5 retrieved all Attorneys' Eyes Only—Highly Confidential Material, or received  
6 certification of its destruction from the recipient pursuant to Paragraph 13 below.

7         7. The producing party shall mark any documents and/or information  
8 designated in good faith as Confidential Material or Attorneys' Eyes Only—  
9 Highly Confidential Material by means of the legend "CONFIDENTIAL" or  
10 "ATTORNEYS' EYES ONLY—HIGHLY CONFIDENTIAL" on each page or  
11 section of a page so designated, or shall otherwise so designate sections of  
12 deposition transcripts or answers to interrogatories that contain such Confidential  
13 Material or Attorneys' Eyes Only—Highly Confidential Material by means of a  
14 statement on the record at the time of deposition testimony or by written notice to  
15 the other party within thirty (30) days of receipt of the transcript of the testimony.  
16 For information produced in its native file format, the designation of material as  
17 "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY—HIGHLY  
18 CONFIDENTIAL" shall appear in a database field entitled "TREATMENT" that  
19 shall be related to each document. Additionally, each hard drive, disk or other  
20 physical item containing native files shall be marked to indicate that it contains  
21 Confidential Material or Attorneys' Eyes Only—Highly Confidential Material.

22         8. If any Confidential Material or Attorneys' Eyes Only—Highly  
23 Confidential Material is provided inadvertently to a discovering party without  
24 being marked "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY—HIGHLY  
25 CONFIDENTIAL" in accordance with the terms of this Order, the failure to so  
26 mark the document and/or information shall not be deemed a waiver of the right to  
27 assert its confidentiality. A party may designate the documents and/or information  
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1 as Confidential Material or Attorneys' Eyes Only—Highly Confidential Material at  
2 a later date, at which time the provisions of this Order shall apply to such  
3 documents and/or information. If a document is designated Confidential Material  
4 or Attorneys' Eyes Only—Highly Confidential Material and one or more copies of  
5 the documents or the original is also produced but not so designated, the copies or  
6 original shall also be treated as Confidential Material or Attorneys' Eyes Only—  
7 Highly Confidential Material if the recipient is actually aware of such fact.

8 9. If any party objects to the designation of any documents and/or  
9 information as Confidential Material or Attorneys' Eyes Only—Highly  
10 Confidential Material, and if the parties are unable to resolve such dispute  
11 informally, the party objecting to the designation may submit the dispute to the  
12 Court for resolution. **Such a motion will comply with the joint filing**  
13 **requirements of Local Rule 37.** Pending resolution of such dispute by the Court,  
14 the documents and/or information shall retain their designation as Confidential  
15 Material or Attorneys' Eyes Only—Highly Confidential Material. A party shall be  
16 obligated to challenge the appropriateness of the designation of documents or  
17 materials as "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY—HIGHLY  
18 CONFIDENTIAL" within thirty (30) days of said party's receipt of such  
19 documents as so designated, or in the case of a deposition, within thirty (30) days  
20 of the date that the party receives notification that some portion of the transcript or  
21 the exhibits are to remain confidential, and in all cases, not more than sixty (60)  
22 days from the date of the deposition during which the documents were first used as  
23 exhibits, and failure to do so shall preclude any subsequent challenge to such  
24 designations. By agreeing to mechanisms for the designation of materials as  
25 "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY—HIGHLY  
26 CONFIDENTIAL," the parties are not agreeing that any particular use of the  
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1 designation is appropriate, but are reserving all rights to challenge particular  
2 designations pursuant to this paragraph.

3 10. All documents and information received in pre-trial discovery in this  
4 action, including but not limited to Confidential Material or Attorneys' Eyes  
5 Only—Highly Confidential Material, and all other material, whether or not  
6 ultimately made part of the public record, shall be used by the receiving party  
7 solely for purposes of the above-captioned litigation, including any appeals, and  
8 for no other business, litigation or other purpose whatsoever.

9 11. The production of Confidential Material and/or Attorneys' Eyes  
10 Only—Highly Confidential Material pursuant to this Order is not intended to  
11 constitute a waiver of any privilege or right to claim the trade secret or confidential  
12 status of the documents, materials, or information produced.

13 12. Any party may introduce relevant and admissible Confidential  
14 Material or Attorneys' Eyes Only—Highly Confidential Material in court filings,  
15 at trial or at a hearing before the Court in this action provided that the party that  
16 produced the Confidential Material or Attorneys' Eyes Only—Highly Confidential  
17 Material is given reasonable notice and an opportunity to seek relief from the  
18 Court. Upon a finding that the parties have commercially and/or competitively  
19 sensitive information at issue, or other good cause for filing under seal any  
20 Confidential Material or Attorneys' Eyes Only—Highly Confidential Material  
21 included, reflected, discussed or described in any papers filed with the Court or  
22 otherwise disclosed to the Court, such filings and/or other papers shall be labeled,  
23 "CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER" or "ATTORNEYS'  
24 EYES ONLY—HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE  
25 ORDER" and shall be filed or otherwise submitted in a sealed envelope, together  
26 with a copy of the motion requesting that the material be sealed and not disclosed  
27 unless ordered by the Court. **Such a request must comply with the provisions of**  
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1 **Local Rule 79-5.** Where possible, only confidential portions of filings with the  
2 Court shall be filed under seal. Absent specific leave from the Court, filings made  
3 under seal also should be filed in redacted form for public access.

4 13. Except as may be otherwise agreed by the parties, not later than sixty  
5 (60) days after the conclusion of this litigation, including all appeals, the receiving  
6 party shall either destroy the Confidential Material or Attorneys' Eyes Only—  
7 Highly Confidential Material, or return the Confidential Material or Attorneys'  
8 Eyes Only—Highly Confidential Material to the producing party, except for  
9 Confidential Material or Attorneys' Eyes Only—Highly Confidential Material that  
10 has been incorporated into work product, and shall so certify in writing to the  
11 producing party.

12 14. This Order shall be without prejudice to the right of any party to  
13 object to any discovery request on any grounds.

14 15. In the event that a party inadvertently produces material that is  
15 protected by the attorney-client privilege, work product doctrine or any other  
16 privilege, within ten (10) business days after the producing party actually discovers  
17 that such production was made, the producing party may make a written request  
18 that the other party or parties return the inadvertently produced privilege document  
19 along with any copies made thereof. The party or parties who received the  
20 inadvertently produced document will either return the document to the producing  
21 party or destroy the document immediately upon receipt of the written request, as  
22 directed by the producing party. By returning or destroying the document, the  
23 receiving party is not conceding that the document is privileged and is not waiving  
24 its right to later challenge the substantive privilege claim, provided that it may not  
25 challenge the privilege claim by arguing that the inadvertent production waived the  
26 privilege.

1           16. Pursuant to Federal Rule of Evidence 502, disclosure of material in  
2 connection with this litigation shall not effect a waiver of the attorney-client  
3 privilege or work product protection in this litigation, nor in any other proceedings.

4           17. The restrictions set forth in the preceding paragraphs shall not apply  
5 to Confidential Material or Attorneys' Eyes Only—Highly Confidential Material  
6 that:

7                   (a) is or becomes disclosed to the public other than through  
8 violation of this Stipulation and Protective Order, provided, however, that  
9 Confidential Material or Attorneys' Eyes Only—Highly Confidential Material  
10 shall not lose that status by reason of its use or disclosure in any proceeding in this  
11 litigation;

12                   (b) is acquired by the non-producing party from a third party  
13 lawfully possessing such Confidential Material or Attorneys' Eyes Only—Highly  
14 Confidential Material and having the legal right to redistribute it; or

15                   (c) was lawfully possessed by the non-producing party before  
16 discovery in this action.

17           18. Any third party producing its own documents pursuant to requests by  
18 a party in this litigation may invoke the protections of this Order in connection  
19 with such production. Further, within fifteen (15) days of any third party  
20 production of documents in connection with this action, each of the parties to this  
21 action shall be able to designate any of those documents as "Confidential Material"  
22 or "Attorneys' Eyes Only—Highly Confidential Material" pursuant hereto, based  
23 on its own (and not the third party's) interest in preserving the confidentiality of  
24 the documents so designated. During the fifteen (15) day period after any third  
25 party production of documents in connection with this action, all such documents  
26 shall be treated as "Attorneys' Eyes Only—Highly Confidential Material" pursuant  
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1 to this Order, pending the parties' designation of such documents consistent with  
2 this paragraph.

3 19. Nothing in this Stipulation and Protective Order shall:

4 (a) prevent or restrict any person from using or disclosing in any  
5 way documents it has produced or disclosed in the course of discovery proceedings  
6 herein;

7 (b) prevent or restrict any person from seeking additional  
8 protection with respect to the disclosure of particular documents;

9 (c) prevent or restrict any person from seeking relief from this  
10 Stipulation and Protective Order for good cause shown; or

(d) prohibit a party from producing Confidential Material or Attorneys' Eyes Only—Highly Confidential Material in its possession pursuant to a subpoena issued by any court, administrative or legislative body, or any other person purporting to have authority to subpoena such Confidential Material or Attorneys' Eyes Only—Highly Confidential Material; provided, however, that if such party receives a subpoena or other compulsory process seeking production or other disclosure of Confidential Material or Attorneys' Eyes Only—Highly Confidential Material, that party shall give prompt written notice to counsel for the producing party, identifying the Confidential Material or Attorneys' Eyes Only—Highly Confidential Material at issue, and, unless prohibited by applicable law, enclosing a copy of the subpoena or other compulsory process in order that the producing party may protect its interest in said Confidential Material or Attorneys' Eyes Only—Highly Confidential Material. When possible, at least ten (10) days' written notice before production or other disclosure shall be given and, in all circumstances, reasonable efforts shall be made to provide written notice prior to production or disclosure.

SO ORDERED:

January 10, 2013



Hon. Michael R. Wilner  
U.S. Magistrate Judge

**CONFIDENTIALITY AGREEMENT**

I, \_\_\_\_\_, hereby acknowledge and agree that:

1. I have read the Protective Order (the "Order") entered in the civil action captioned *Penske Media Corporation v. Prometheus Global Media LLC*, Civil Action No. 11-7560-JST (MRW), in the United States District Court for the Central District of California.

2. I understand the terms of the Order.

3. I hereby agree to be bound by the terms of the Order and understand that a violation thereof may subject me to contempt proceedings and to legal and equitable remedies, including damages.

4. I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that a party asserting a confidentiality interest hereunder shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. I agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Confidentiality Agreement but shall be in addition to all remedies available at law or equity.

1           5.     I hereby irrevocably submit to the jurisdiction of the United States  
2 District Court for the Central District of California, or any other court of competent  
3 jurisdiction, for purposes of ensuring compliance with the terms and conditions of  
4 the Order and for civil remedies in the form of legal and equitable relief, including  
5 damages, for any breach thereof.  
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7  
8 Dated: \_\_\_\_\_  
9

10 \_\_\_\_\_  
11 Print Name

12  
13 \_\_\_\_\_  
14 Signature

15  
16 \_\_\_\_\_  
17 Title

18  
19 \_\_\_\_\_  
20 Company